

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT WALTER,

Petitioner,

vs

9:06-CV-558

WILLIAM LAPE,

Respondent.

APPEARANCES:

OF COUNSEL:

ROBERT WALTER
Petitioner, Pro Se
99-B-269
Marcy Correctional Facility
P.O. Box 3600
Marcy, NY 13403

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MALANCHA CHANDA, ESQ.
PRISCILLA I. STEWARD, ESQ.
Assts. Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

The petitioner, Robert Walter, brought this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in the above action. By a report- recommendation dated June 25, 2009, the Honorable David E. Peebles, United States Magistrate Judge, recommended that the petition for a writ of habeas corpus be denied and dismissed in all respects, and that a certificate of appealability not issue with respect to the claim set forth in his petition. Petitioner has filed timely objections to the report and recommendation.

Based upon a de novo determination of the report and recommendation, including the portions to which petitioner has objected, the Report-Recommendation is accepted and adopted in whole. See 28 U.S.C. 636(b)(1); Rule 10, Rules Governing Section 2254 Cases.

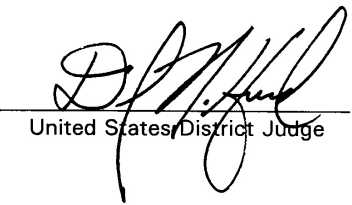
Therefore, it is

ORDERED that

1. The petition of Robert Walter is DENIED;
2. The petition is DISMISSED;
3. A Certificate of Appealability will not be issued in this matter; and
4. The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: September 2, 2009
Utica, New York.



United States District Judge